

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

MOUNTAIN MIKE'S PIZZA, LLC,

Plaintiff,

v.

KKR FOODS, INC., KAMWAL SINGH
KHERA, MAKKHAN SINGH RAKKAR,
RAKESH M. KUMAR, KHN FOODS, INC.,
and RITU K. KHERA,

Defendants.

Case No.: 3:20-cv-00304-MMD-CLB

**ORDER APPROVING
STIPULATION AND
[PROPOSED] ORDER FOR
ENTRY OF FINAL JUDGMENT**

Pursuant to Federal Rules of Civil Procedure 54 and 58 and Local Rules LR 1A 6-2 and LR 7-1, Plaintiff Mountain Mike's Pizza, LLC ("MMP") and Defendants KKR Foods, Inc., Kamwal Singh Khera, Makkhan Singh Rakkar, Rakesh M. Kumar, KHN Foods, Inc. and Ritu K. Khera (collectively, "Defendants") hereby stipulate and agree that judgment should be entered in favor of MMP and against Defendants, and respectfully request that the Court enter its final order and judgment approving the stipulation sought herein. The parties stipulate and agree that the basis for entry of final judgment in favor of MMP and against Defendants is as follows:

A. MMP is a franchisor of Mountain Mike's® Pizza Restaurants that feature pizza but also sell other food products that operate under the names and trademarks (the "Marks") set forth in Paragraph 12(a)-(d) of the Verified Complaint filed in the above styled action (the "Litigation") (collectively, the "MMP Businesses");

1 B. On August 1, 2004, certain of the Defendants executed a Franchise Agreement to
2 operate a Mountain Mike's® Pizza Restaurant at 1601 Vassar Street, Reno, Nevada 89502 (the
3 "Vassar Street MMP"), which is attached as Exhibit "1" to the Verified Complaint [DE 1]
4 ("Vassar Street Franchise Agreement");

5 C. Defendants Kamwal Singh Khera, Makkhan Singh Rakkar, Rakesh M. Kumar
6 Marilyn E. Singh, and Ritu K. Khera executed a Guaranty and Assumption of Obligations in
7 connection with the Vassar Street Franchise Agreement;

8 D. The Vassar Street Franchise Agreement expired on August 1, 2019 and the Vassar
9 Street Franchise Agreement terminated;

10 E. On September 22, 2001, certain of the Defendants executed a Franchise
11 Agreement to operate a Mountain Mike's® Pizza Restaurant at 3380 South McCarran, Reno,
12 Nevada 89502 (the "South McCarran MMP"), which is attached as Exhibit "2" to the Verified
13 Complaint [DE 1] ("South McCarran Franchise Agreement" and, together with the Vassar Street
14 Franchise Agreement, the "Franchise Agreements");

15 F. Defendant Khera executed a Guaranty and Assumption of Obligations in
16 connection with the South McCarran Franchise Agreement;

17 G. The South McCarran Franchise Agreement terminated on July 31, 2019, as a
18 result of KHN Foods' serial material breaches of the South McCarran Franchise Agreement;

19 H. Following the expiration of Defendants' Franchise Agreements, Defendants
20 became subject to the post-term restrictive covenants in the Franchise Agreements, including the
21 Covenant Not to Compete in Section 15(D) of the Franchise Agreements, the restrictions in
22 Section 15(B) of the Franchise Agreements and other post-term obligations that Defendants
23 owed to MMP;

24 I. On May 22, 2020, MMP initiated Litigation by filing its Verified Complaint for
25 Damages and Injunctive Relief against the Defendants in the above-captioned matter;

26 J. Also on May 22, 2020, MMP initiated an arbitration through the American
27 Arbitration Association against certain of the Defendants as a result of alleged breaches of the

1 Franchise Agreement and the post-term and other obligations set forth therein, before the
2 American Arbitration Association Case 01-20-0005-3695 (the "Arbitration");

3 K. The Parties are currently engaged the Litigation and Arbitration;

4 L. The Parties have agreed to settle the Litigation and Arbitration and the Defendants
5 have stipulated and agreed to permit final judgment be entered against them as set forth herein
6 and have entered into a written Settlement Agreement dated June 19, 2020 ("Effective Date")
7 permitting for entry of this Stipulation and [Proposed] Order for Entry of Final Judgment.

8 Based on the foregoing, the Parties stipulate and agree that Final Judgment should be
9 entered in favor of MMP and against Defendants on the following terms:

10 1. Judgment shall be entered in favor of MMP against Defendants, jointly and
11 severally, in the total amount of TWENTY-FIVE THOUSAND DOLLARS (\$25,000).

12 2. The restrictive covenants and post-termination obligations contained in the
13 Franchise Agreements entered into by Defendants, which are the subject of the above-styled
14 action, and which are attached to the Verified Complaint [DE 1], are valid, binding, and
15 enforceable by MMP, against Defendants.

16 3. Defendants shall immediately and permanently close the businesses currently
17 operating at 1601 Vassar Street, Reno, Nevada 89502 and 3380 South McCarran, Reno, Nevada
18 89502 (the "Locations").

19 4. Defendants, and any of their owners are hereby enjoined from directly or
20 indirectly:

21 i. until and through June 18, 2022, as owner, officer, director, employee, agent,
22 lender, broker, consultant, franchisee, investor or in any other similar capacity
23 whatsoever, being connected in any manner with the ownership, management,
24 operation or control, or conduct of a Competitive Business¹ within (a) 1.5 miles
25 of either of the Locations or (b) 1 mile of any Mountain Mike's® Pizza
26 Restaurant then in operation or under construction as of the Effective Date;

27 ii. identifying themselves or any business as a current or former Mountain
28 Mike's® Pizza Restaurant, or as one of its licensees or franchise owners;

¹ Unless otherwise defined herein, all capitalized terms are defined in the Franchise Agreement.

- iii. using any Mark, any colorable imitation thereof or other indicia of a Mountain Mike's® Pizza Restaurant in any manner or for any purpose or utilizing for any purpose any trade name, trade or service mark or other commercial symbol that indicates or suggests a connection or association with MMP;
- iv. using and/or disclosing Confidential Information of MMP;
- v. soliciting or doing business in any way with MMP's customers and suppliers;
- vi. committing any other acts in violation of the Franchise Agreements; and
- vii. assisting, aiding, or abetting any other person or business entity in engaging in or performing any of the activities referred to in the above paragraphs (i) through (vi).

5. Defendants shall immediately take the action required to cancel all fictitious or assumed name or equivalent registrations relating to their use of any Mark and to cancel any electronic address, domain name, search engine, or website that associates Defendants with MMP or the Marks;

6. Defendants shall immediately deliver to MMP all signs, sign-faces, sign-cabinets, marketing materials, forms and other materials containing any Mark or otherwise identifying or relating to a Mountain Mike's® Pizza Restaurant and allow MMP, without liability to your or third parties, to remove all of these items from the Locations.

7. Defendants shall immediately notify the telephone company and all telephone directory publishers of the termination or expiration of their right to use any telephone, telecopy or other numbers and any telephone directory listings associated with any Mark, and authorize the transfer of these numbers and directory listings to MMP.

8. Defendants are warned that any act by them in violation of any of the terms of this final judgment after proper notice to them, may be considered and prosecuted as contempt of this Court.


9. The Court reserves jurisdiction to enforce the terms of this final judgment and the Settlement Agreement, and award appropriate relief.

10. The Clerk shall close the file.

IT IS SO STIPULATED.

1 DATED this ^{29th} day of June, 2020.

2 GREENBERG TRAURIG, LLP

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4 CHRISTOPHER R. MILTENBERGER, ESQ.
5 Nevada Bar No. 10153
6 10845 Griffith Peak Drive, Suite 600
7 Las Vegas, NV 89135
8 Counsel for Plaintiff Mountain Mike's Pizza
9 LLC

7 DATED this 19th day of June, 2020.

8 KKR FOODS, INC.

9 
10 By: Kamwal Singh Khara


11 Its: President and Owner

12 DATED this 19th day of June, 2020.

13 KAMWAL SINGH KHERA, individually

14
15 8-06-19-2020
16 DATED this 19th day of June, 2020.

17 RAKESH M. KUMAR, individually

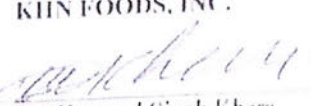
18 
19
20
21 DATED this 19th day of June, 2020.

22 RITU K. KHERA, individually

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27
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DATED this 19th day of June, 2020.

KHN FOODS, INC.

9 
10 By: Kamwal Singh Khara

11 Its: President and Owner

DATED this 19th day of June, 2020.

13 MAKKHAN SINGH RAKKAR,
14 individually

15 MS. Rakkar
16 DATED this 19th day of June, 2020.

17 MARILYN E. SINGH, individually

18 MSE Singh
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ORDER FOR ENTRY OF FINAL JUDGMENT

Based on the foregoing stipulation of the Parties and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Final Judgment is hereby entered in favor MMP and against the Defendants, jointly and severally, on the terms set forth in the stipulation above.

IT IS SO ORDERED:




MIRANDA M. DU
Chief United States District Judge

Dated: June 29, 2020

Respectfully submitted by:

GREENBERG TRAURIG, LLP



CHRISTOPHER R. MILTENBERGER, ESQ.
Nevada Bar No. 10153
10845 Griffith Peak Drive, Suite 600
Las Vegas, NV 89135
Counsel for Plaintiff Mountain Mike's Pizza, LLC